



Fair Share Contribution: Filing Year 2010 Results and Analyses

September 2011

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What Is the Fair Share Contribution?

Per MGL c. 149, § 188, an employer with 11 or more full-time equivalent employees (FTEs) must either make a “fair and reasonable” contribution toward the health care costs of its workers or pay a Fair Share Contribution (FSC) of up to \$295 annually per FTE.

Why Was Fair Share Established?

This policy was created to help finance the care of uninsured individuals and to provide for a more level playing field between “contributing” employers and “non-contributing” employers.

How Is the Standard Set for “Fair and Reasonable?”

The Division of Health Care Finance and Policy (DHCFP) is responsible for setting the standard via regulation regarding what constitutes a “fair and reasonable” contribution toward the cost of health coverage.

Where Do the Contributions Go?

The revenue generated by the Fair Share Contributions of employers is deposited into the Commonwealth Care Trust Fund, which finances Commonwealth Care, a subsidized insurance program for low-income residents of Massachusetts.

How Will National Health Reform Affect the Fair Share Contribution in Massachusetts?

The new national health reform law (the Patient Protection and Affordable Care Act or PPACA) signed into law on March 23, 2010 includes many new opportunities and responsibilities for employers. There is an employer assessment in PPACA that goes into effect in 2014. It has not yet been determined how the national employer assessment policy and Massachusetts’ Fair Share Contribution policy will be reconciled.

However, Massachusetts policy makers and DHCFP staff are currently working to determine how to best prepare and support Massachusetts employers for those changes, and will work to ensure a smooth transition between Massachusetts policies and national policies.



Background on Massachusetts Employers and Health Reform

- Massachusetts's high rate of insurance coverage (over 98%) is due in large part to the continued engagement of the Massachusetts employer community. Policies enacted by Massachusetts health reform laws of 2006, including several that directly affect employers such as the Fair Share Contribution and the requirement that employers have Section 125 plans, in place have contributed to Massachusetts having the highest insurance coverage rate in the nation at more than 98%.
- Since reform, the Massachusetts employer offer rate has increased to 77%.
- Since the implementation of the Fair Share Contribution policy, the vast majority of employers across firm sizes and industries have been determined to be making “fair and reasonable” contributions toward the health care costs of their full-time workers.
- The Massachusetts health reform laws of 2006 require that all employers with 11 or more full-time employees (FTEs) must offer a Section 125 plan as a way for workers to be able to purchase health insurance using pre-tax income. A Section 125 plan is a qualified health insurance plan where employees can pay group insurance premiums on a pre-tax basis.

Sources: DHCFF, Massachusetts Household Insurance Survey, 2010. http://www.mass.gov/Eeohhs2/docs/dhcfp/r/pubs/10/mhis_report_12-2010.pdf; DHCFF, Massachusetts Employer Survey on Health Insurance, 2010. http://www.mass.gov/Eeohhs2/docs/dhcfp/r/pubs/11/mes_results_2010.pdf; DHCFF, Analysis in Brief: Massachusetts Employers and Health Reform, 2009. http://www.mass.gov/Eeohhs2/docs/dhcfp/r/pubs/10/mes_aib_2009.pdf.



Key Findings From Filing Year 2010

Fair Share Contribution / Health Insurance Responsibility Disclosure

- Approximately 95% of all employers subject to the Fair Share Contribution (FSC) requirement meet the FSC standards. This is likely a result of the fact that Massachusetts employers offer coverage in high numbers, with 77% offering health insurance coverage, compared to 69% of employers nationally.
- The number of employers subject to the FSC has remained consistent since 2007.
- Revisions to the FSC standards that became effective shortly into FY09 appear to have slightly increased the number of employers found liable and the amount of liability generated. These revisions, explained on the next page, created a slightly different standard for employers with between 11 and 50 FTEs and those with 51+ FTEs.
- Since the implementation of the FSC policy, roughly \$62.8 million in liability has been determined by the Commonwealth from non-contributing employers.
- Compliance with the Section 125 requirement has risen across all employer sizes. The latest data show that 95% of employers are offering Section 125 plans, up from 88% in 2007.



Fair Share Contribution Standards

As of January 1, 2009

Firms with 11-50 FTEs	Firms with 51+ FTEs
<ul style="list-style-type: none"> Must offer to contribute at least 33% towards the cost of an individual premium in its active employer-sponsored health plan to ALL full-time employees within 90 days of hire; 	<ul style="list-style-type: none"> Must offer to contribute at least 33% towards the cost of an individual premium in its active employer-sponsored health plan to ALL full-time employees within 90 days of hire AND have at least 25% of its full-time employees enrolled in its employer-sponsored group health plan(s) (paid in part by employer);
OR	OR
<ul style="list-style-type: none"> Have at least 25% of its full-time employees enrolled in its employer- sponsored group health plan(s) (paid in part by employer). 	<ul style="list-style-type: none"> Have at least 75% of its full-time employees enrolled in its employer- sponsored group health plan(s) (paid in part by employer).

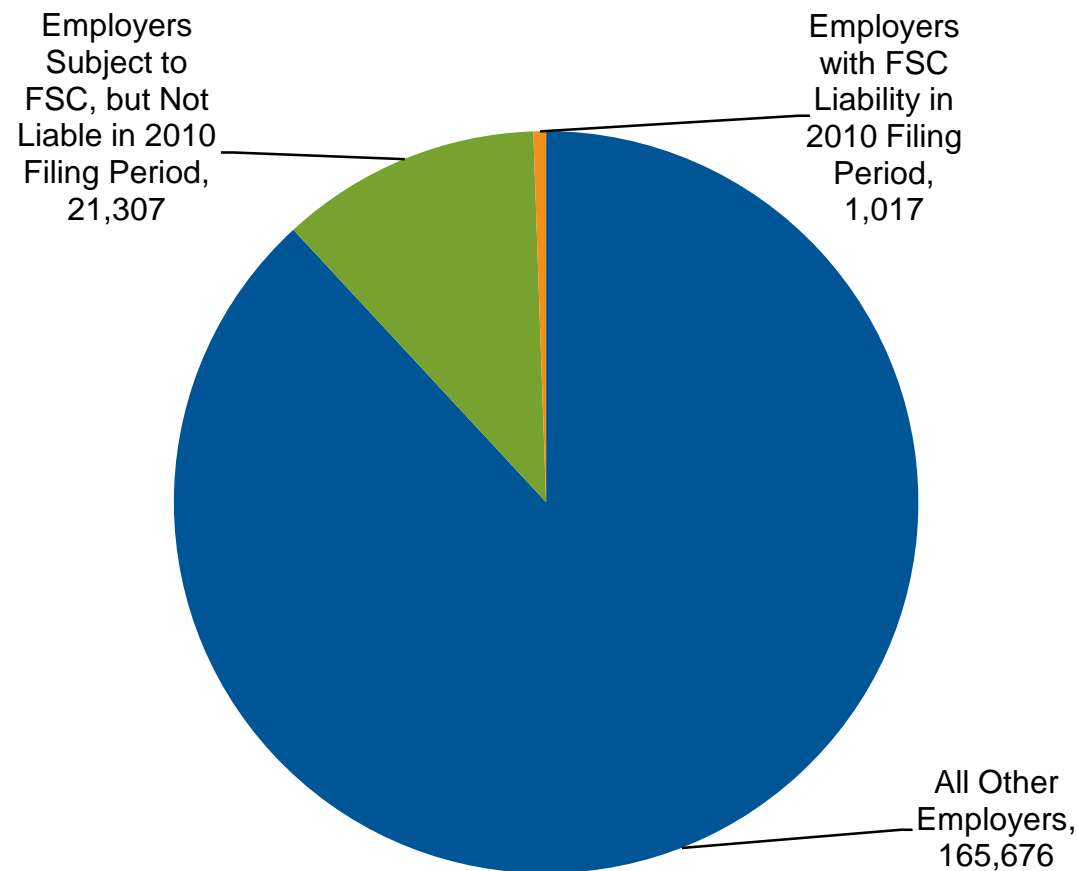
Note: The Fair Share Contribution standards outlined above were changed in regulations that were effective 10/1/08 or the first quarter of Filing Year 2009. However, the new standard *began on* 1/1/09, the beginning of the second quarter of filing year 2009. Prior to this change, the standard for all 11+ FTE-sized firms was the standard that now only applies to the 11-50 FTE-sized firms. In this report "FY" refers to Filing Year, not Fiscal Year.



Fair Share Contribution Filing Year 2010 Results



Fair Share Contribution Policy in the Context of Entire Massachusetts Labor Market

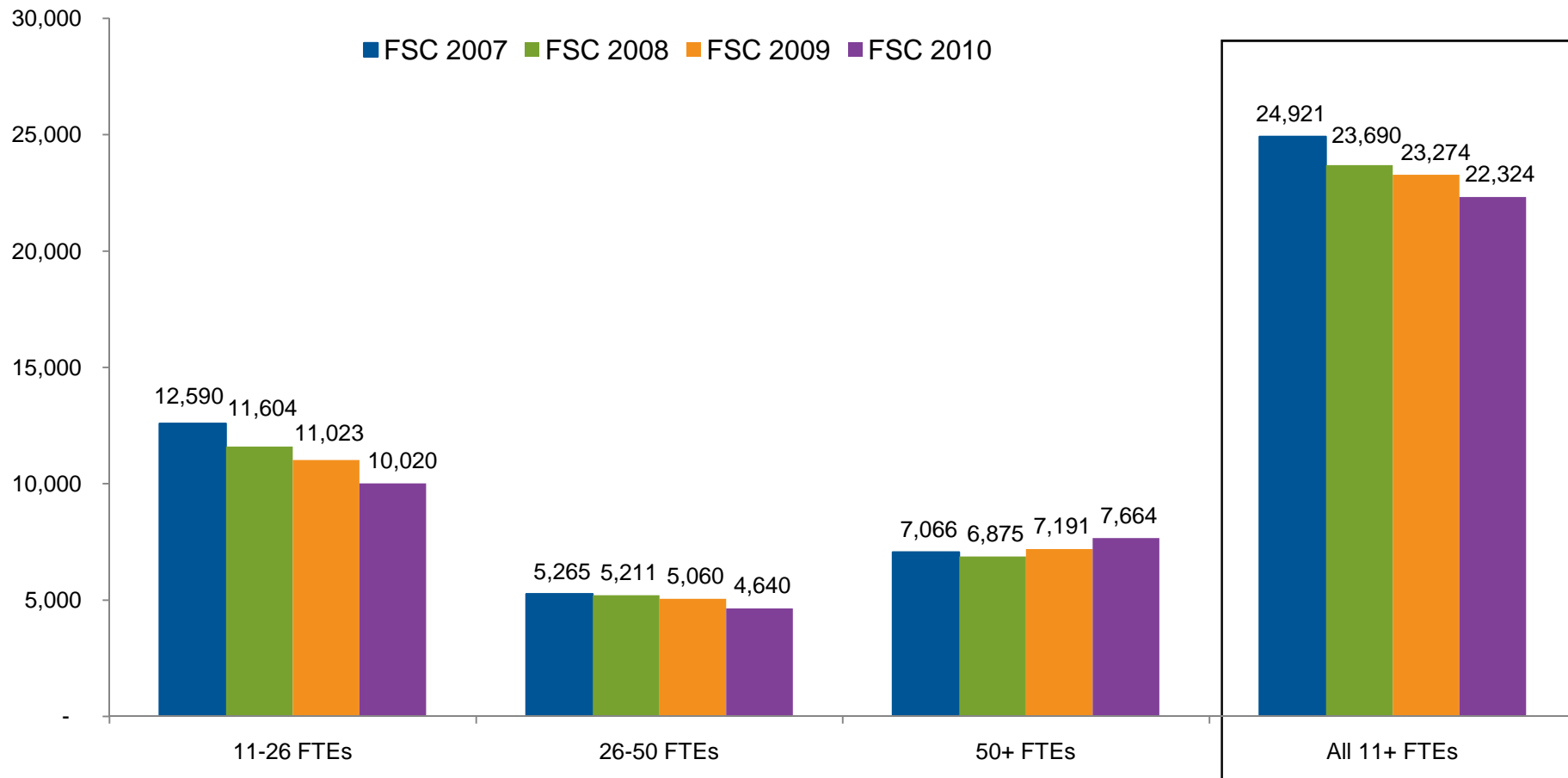


- Massachusetts has approximately 188,000 employers.
- Only about 12% of all Massachusetts employers have 11 or more FTEs and are subject to the Fair Share Contribution policy.
- Of those subject to Fair Share, approximately 4.6%, or 0.5% of all Massachusetts employers, did not meet the standard in filing year 2010 (FY10) and are required to pay a Fair Share Contribution.

Note: Based on data filed with the Department of Unemployment Assistance as of June 30, 2011. Reflects results of FSC FY10 Q1 filing period. Total employer count in Massachusetts based on Department of Unemployment Assistance data on employers that registered for Unemployment Insurance in 2010. Figure does not count sole proprietors with no employees, IC's and partners without employees, and employers in the underground economy. In this report "FY" refers to Filing Year, not Fiscal Year.



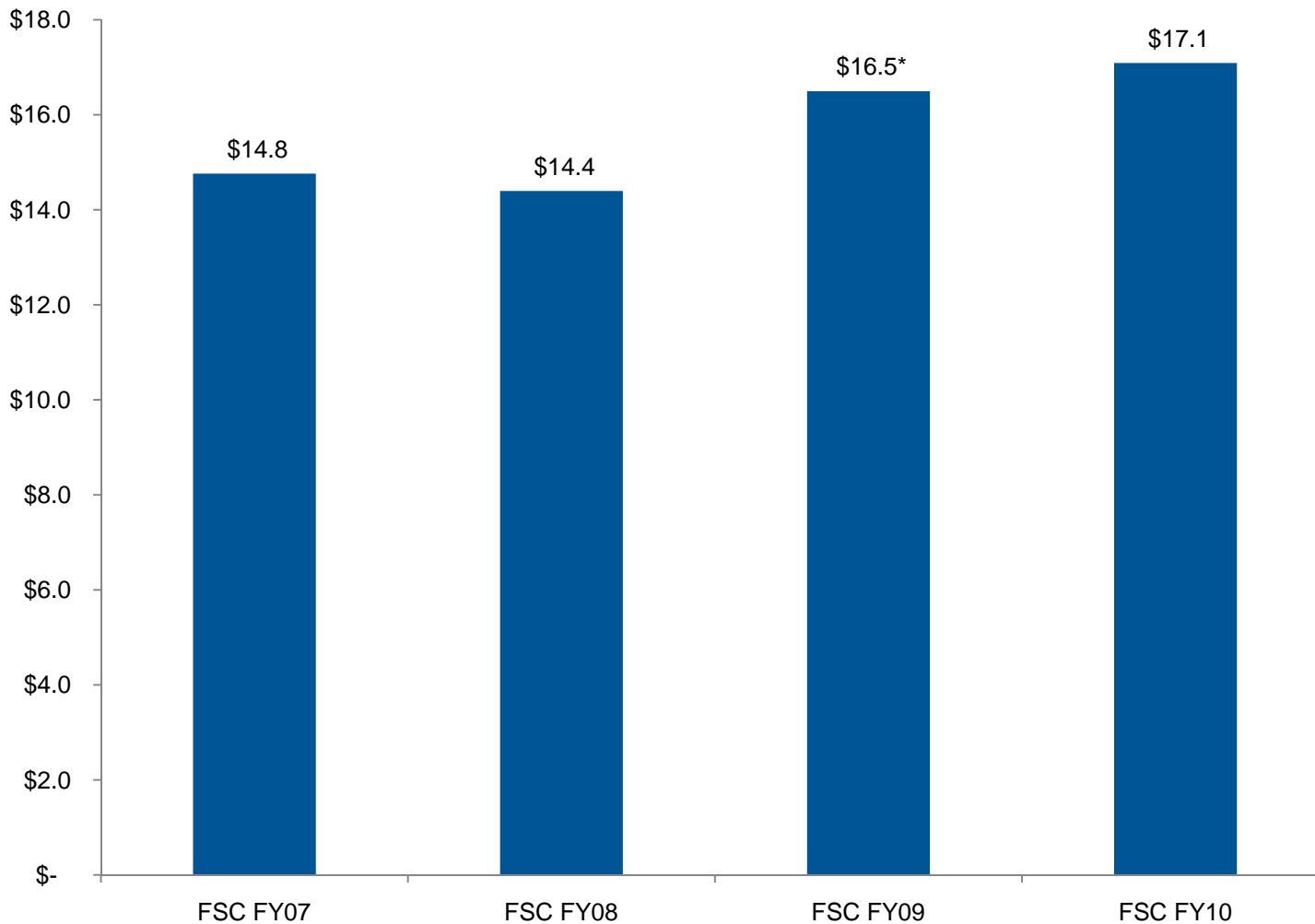
Firms that Filed Fair Share Contribution Data by Filing Year and Firm Size (2007-2010)



Note: Based on data filed with Department of Unemployment Assistance as of June 30, 2011. Note that the total number of employers in Massachusetts is roughly 188,000.



Fair Share Contribution Liability by Filing Year (in millions)



Note: Based on data filed with Department of Unemployment Assistance as of June 30, 2011. For FY 2009 and 2010, data is from Q1.

Liability determinations are distinct from actual revenue collected by DUA, which may take place after the filing year has ended, and liability determinations may be subject to change due to subsequent audits and appeals. Therefore, liability determination should not be compared year-to-year due to fluctuations. In this report "FY" refers to Filing Year, not Fiscal Year.

* Note that Filing Year 2009 data includes one quarter of the original FSC test (where all 11+ employers were subject to the "or" test) and three quarters of the updated FSC test. For more details, see slide 5.



Percentage of Firms Meeting Fair Share Contribution Standards by Filing Year and Firm Size

	11-26 FTEs	26-50 FTEs	50+ FTEs	All 11+ FTEs
Filing Year 2007	93.7%	96.6%	97.5%	95.4%
Filing Year 2008	94.9%	96.7%	97.0%	95.9%
Filing Year 2009	95.0%	96.5%	96.8%	95.9%
Filing Year 2010	95.1%	96.1%	95.5%	95.4%

Note: Based on data filed with Department of Unemployment Assistance as of June 30, 2011. For FY 2009 and 2010, data is from Q1.



Fair Share Contribution Compliance by Largest Industries Filing Year 2010

Industry	Percentage of Firms Meeting FSC Standard
Full-Service Restaurants	79.0%
Offices of Physicians (except Mental Health Specialists)	98.9%
Snack and Non-alcoholic Beverage Bars	94.0%
Elementary and Secondary Schools	99.5%
Nursing Care Facilities	98.9%
New Car Dealers	99.4%
Offices of Lawyers	100.0%
Religious Organizations	99.7%
Child Day Care Services	97.4%
All Industries	94.9%

Note: Based on data filed with Department of Unemployment Assistance as of June 30, 2011. Total Industry filings in FSC FY10 include 21,175 businesses which indicated their industry type via a reported NAICS code. Filings that do not indicate a NAICS code are not included in the calculations. Industries with fewer than 50 employers were excluded. Data collected FSC FY 2010 Q1.

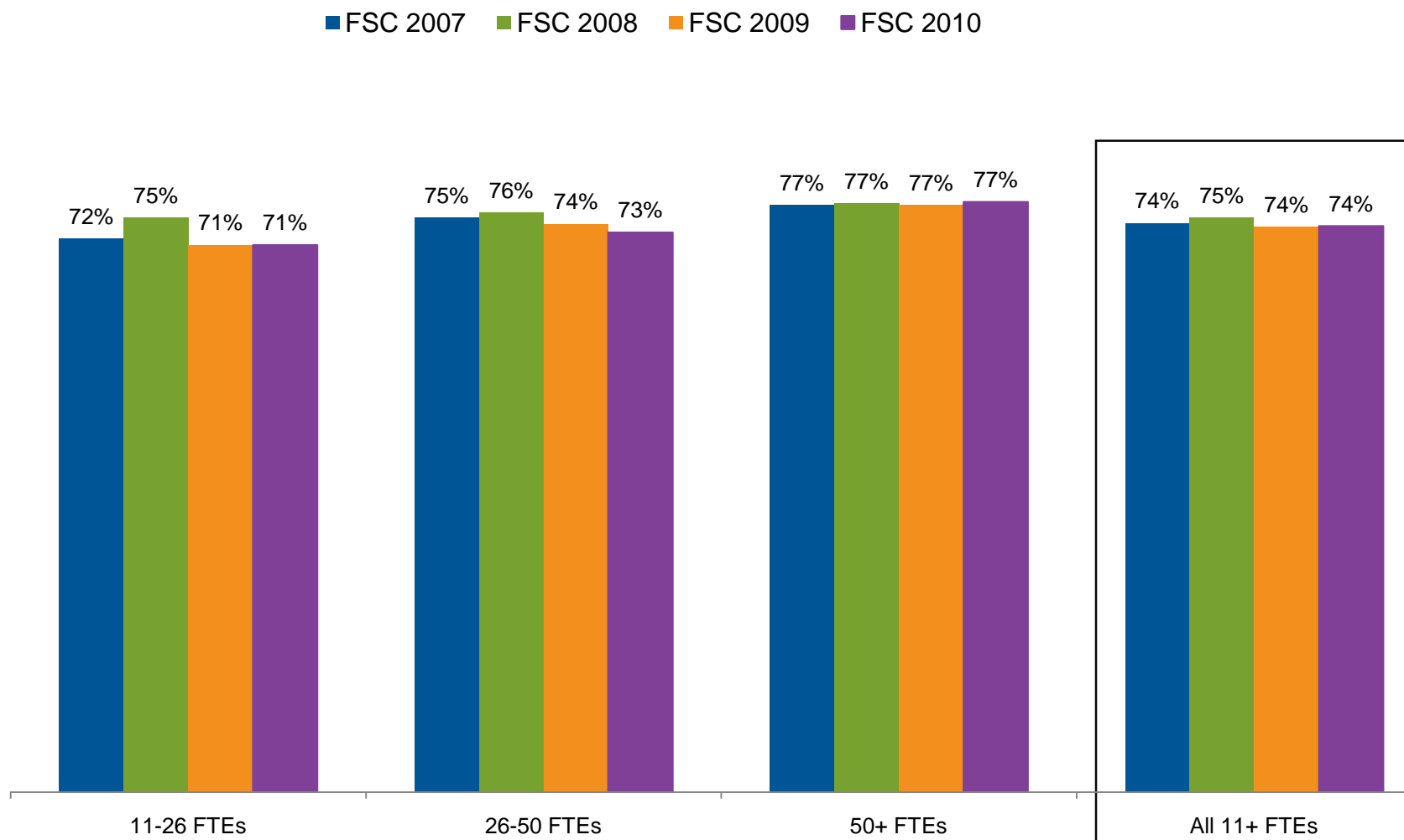


Take-Up and Contribution Trends



Median Employee Health Insurance Take-Up Rate

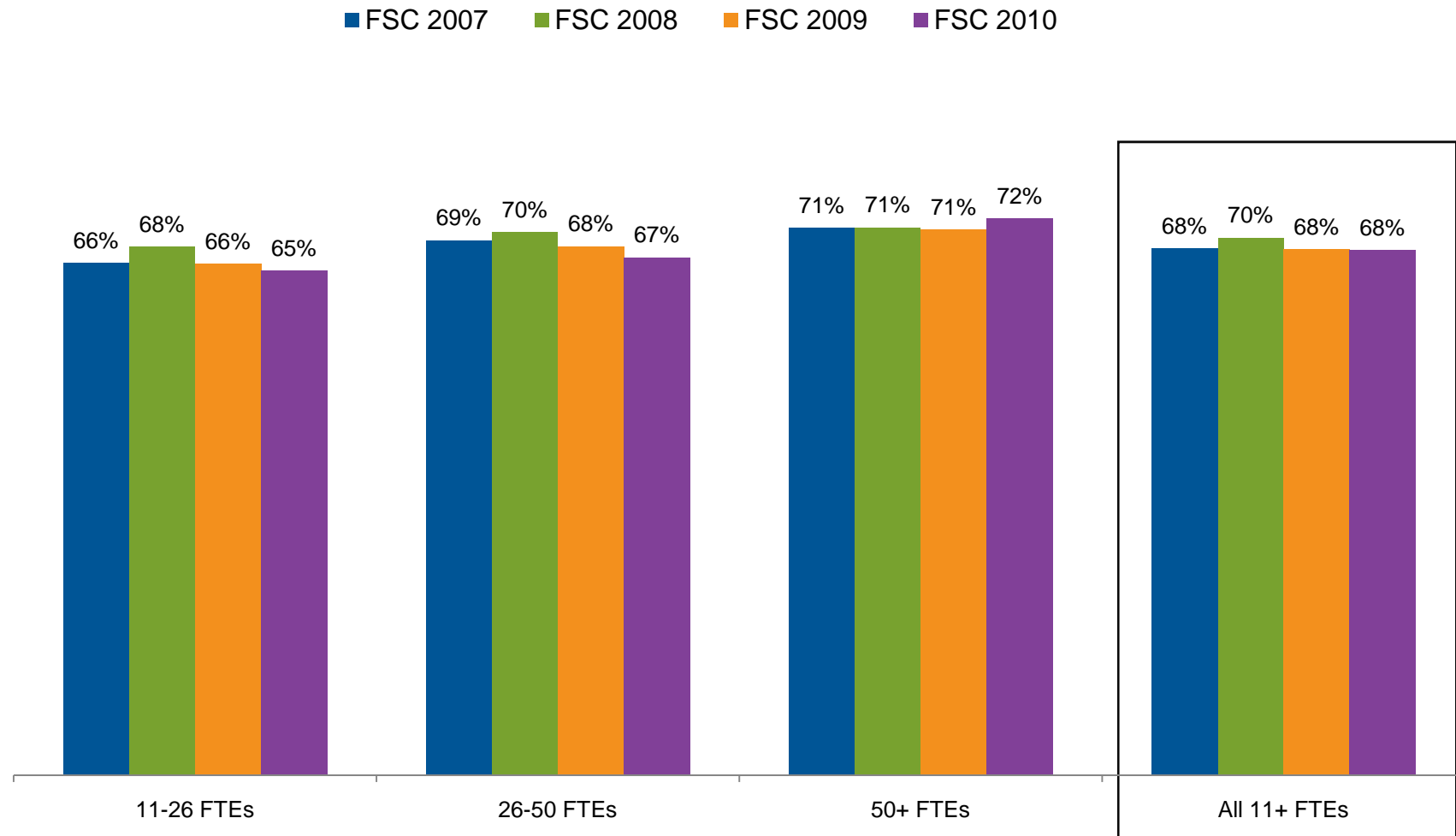
Firms Filing Fair Share Contribution Data (2007-2010)



Note: Take-up rate is the percentage of full-time employees eligible for health benefits that choose to participate in the group health plan offered by their employer.
Based on data filed with Department of Unemployment Assistance as of June 30, 2011.



Mean Employee Health Insurance Take-Up Rate Firms Filing Fair Share Contribution Data (2007-2010)

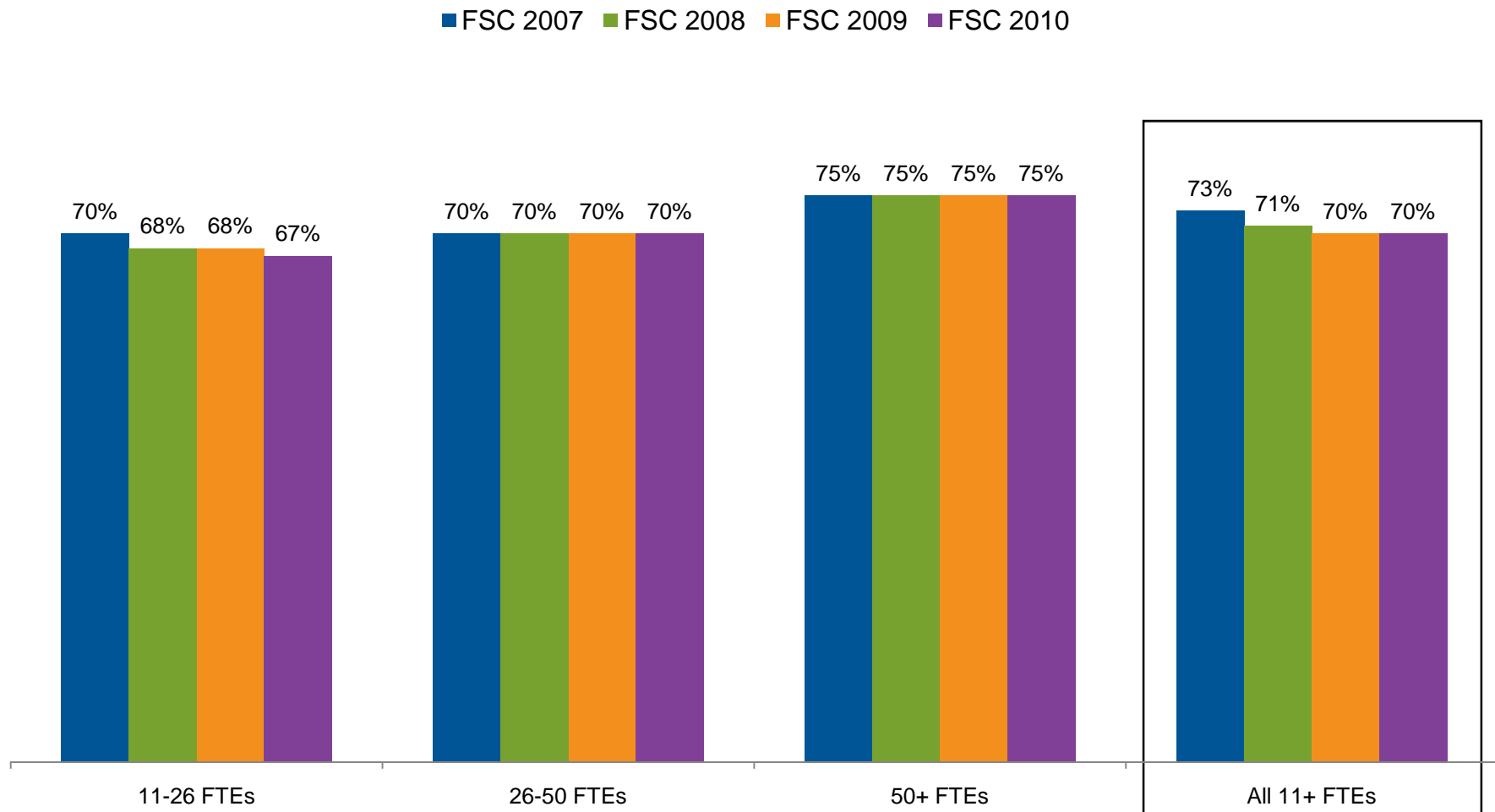


Note: Take-up rate is the percentage of full-time employees eligible for health benefits that choose to participate in the group health plan offered by their employer.
Based on data filed with Department of Unemployment Assistance as of June 30, 2011.



Median Rate of Employer Contribution Towards Employee Health Insurance Premiums

Firms Filing Fair Share Contribution Data (2007-2010)

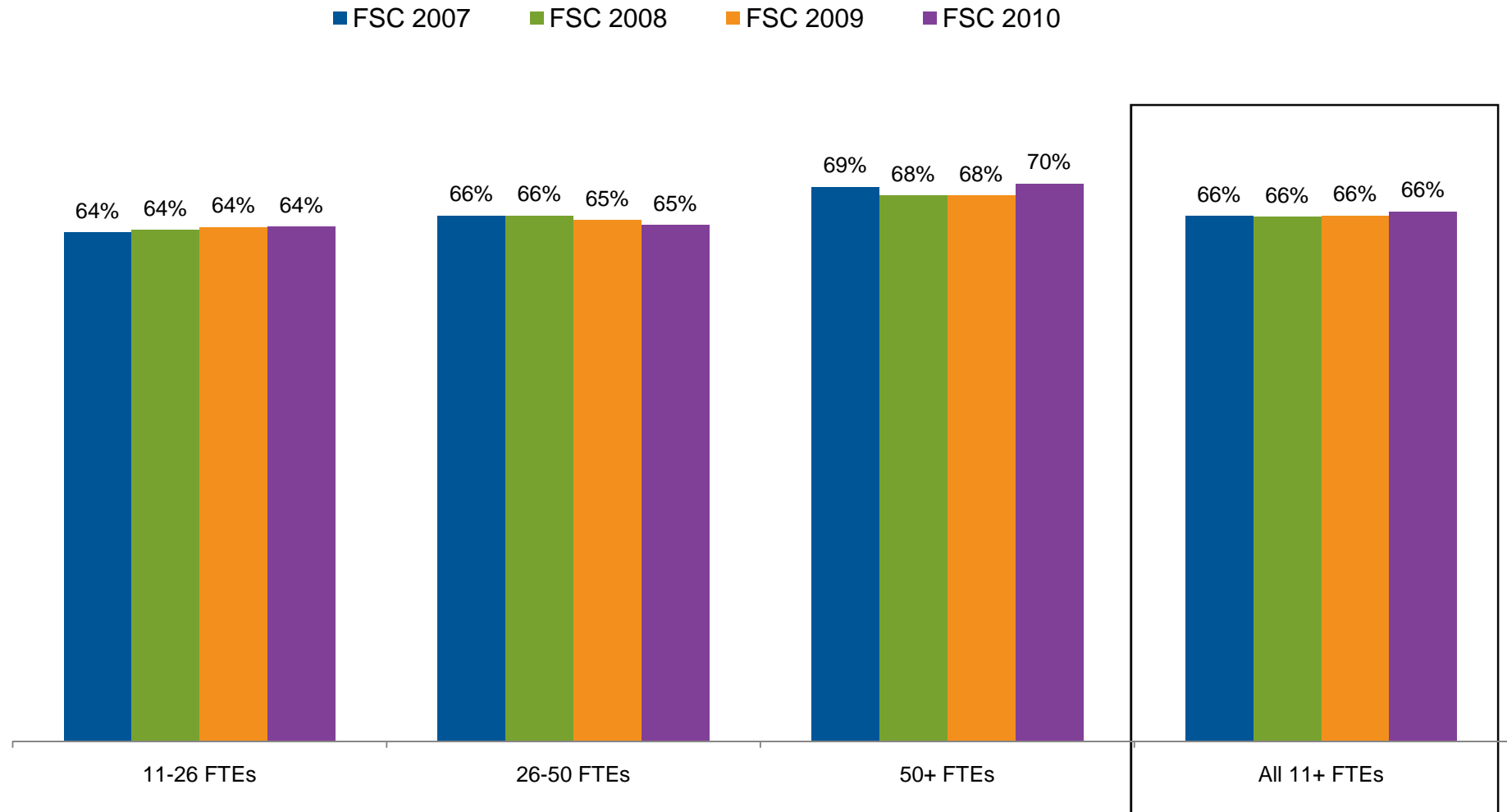


Note: Contribution rate is the lowest percentage of the cost of a monthly premium an employer offers to pay for any of its full-time employees. Based on data filed with Department of Unemployment Assistance as of June 30, 2011.



Mean Rate of Employer Contribution Towards Employee Health Insurance Premiums

Firms Filing Fair Share Contribution Data (2007-2010)



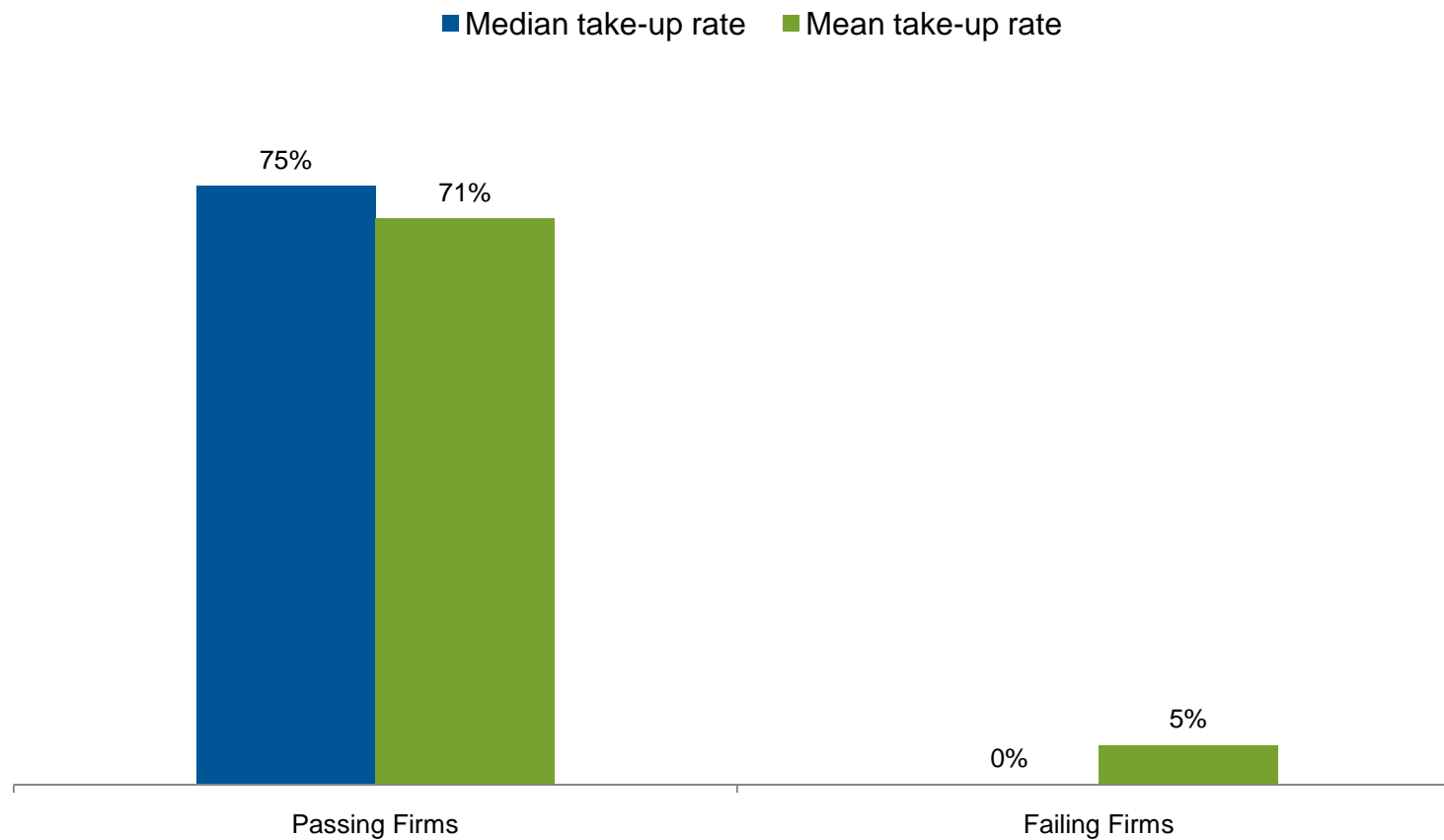
Note: Contribution rate is the lowest percentage of the cost of a monthly premium an employer offers to pay for any of its full-time employees. Based on data filed with Department of Unemployment Assistance as of June 30, 2011.



How Failing and Passing Firms Differ



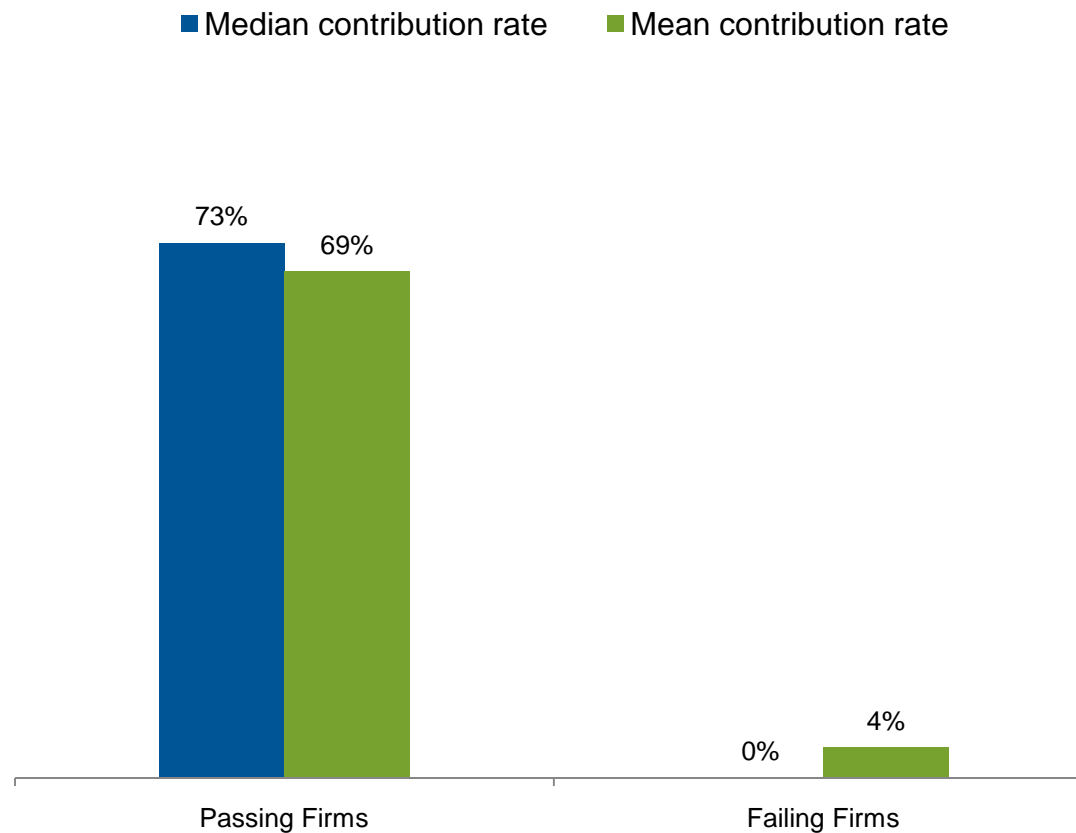
Mean and Median Take-Up Rates (Filing Year 2010)



Note: FY 2010 data based on June 30, 2011 data from DUA.



Mean and Median Contribution Rates (Filing Year 2010)



Note: FY 2010 data based on June 30, 2011 data from DUA.



Industries – Highest Passing Rates vs. Lowest Passing Rates

Industries with <i>Highest</i> Passing Rates:		Industries with <i>Lowest</i> Passing Rates:	
Offices of Lawyers	100%	Temporary Help Services	56%
Custom Computer Programming Services	100%	Security Guards and Patrol Services	65%
Insurance Agencies and Brokerages	100%	Employment Placement Agencies	70%
Other General Government Support	100%	School and Employee Bus Transportation	75%
Machine Shops	100%	Janitorial Services	79%
Software Publishers	100%	Full-Service Restaurants	79%
Research and Development in Biotechnology	100%	Limited-Service Restaurants	83%
Portfolio Management	100%	Home Health Care Services	87%
Commercial and Institutional Building Construction	100%	Supermarkets and Other Grocery (except Convenience) Stores	88%
Offices of Certified Public Accountants	100%		

Note: Industry data based on NAIC code. Industries with fewer than 50 employers were excluded.



Employer Health Insurance Responsibility Disclosure (HIRD) Data



Overview of the Employer HIRD

What Is the “Employer HIRD?”

Employers with 11 or more FTEs are required to file an Employer Health Insurance Responsibility Disclosure report (Employer HIRD). The form asks employers for information about their compliance with the M.G.L. c. 151F requirement to adopt and maintain a Section 125 Cafeteria Plan. A Section 125 plan is a qualified health insurance plan where employees can pay group insurance premiums on a pre-tax basis. The HIRD also asks questions that allow DHCFP to monitor trends in employer-sponsored health insurance coverage in Massachusetts, such as costs of health insurance premiums, waiting periods, benefit design, and coverage trends.

Where and How Do Employers Submit Employer HIRD Forms?

Employers fill out the Employer HIRD online following the submission of their FSC data.

How Frequently Do Employers Submit Employer HIRD Forms?

Employers that are required to submit FSC data quarterly are also required to submit HIRD data quarterly. Employers that are required to submit FSC data annually are also required to submit HIRD data annually.



Key Data from Filing Year 2010 HIRD Filings

Section 125 Compliance, Waiting Periods, and Median Premium Amounts

	Section 125 Offer (%)	Waiting Period (months)	Median Monthly Plan Premium	
			Individual	Family
Full-Service Restaurants	80.8%	3	\$308	\$745
Offices of Physicians (except Mental Health Specialists)	92.7%	1	\$453	\$1,230
Snack and Non-alcoholic Beverage Bars	93.7%	3	\$358	\$912
Elementary and Secondary Schools	95.9%	<1	\$422	\$1,146
Nursing Care Facilities	98.5%	2	\$439	\$1,176
New Car Dealers	99.0%	3	\$404	\$1,105
Offices of Lawyers	94.1%	<1	\$423	\$1,166
Child Day Care Services	92.9%	2	\$386	\$976
Wholesale Trade Agents and Brokers	95.6%	1	\$364	\$1,054
All Industries	91.2%	1	\$384	\$1,047

Note: Based on data self-reported with Division of Health Care Finance and Policy via the Employer Health Insurance Responsibility Disclosure questionnaire as of June 30, 2011. Total Industry filings include 21,175 businesses which indicated their industry type via a reported NAICS code. Industries with fewer than 50 employers were excluded. Data collected during Filing Year 2010 Q1.



Section 125 Plan Offered by Employer Size

	11-26 FTEs	26-50 FTEs	50+ FTEs	All 11+ FTEs
HIRD 2007	79.4%	90.2%	93.1%	85.5%
HIRD 2008	84.4%	91.4%	94.1%	88.8%
HIRD 2009	86.2%	93.6%	90.5%	88.7%
HIRD 2010	92.0%	95.8%	97.4%	94.8%

Note: Based on data self-reported with Department of Unemployment Assistance and Employer Health Insurance Responsibility Disclosure, both as of June 30, 2011.
Data labeled FY09 and FY10 collected during Q1.



Premium Reimbursement Arrangements

Percent of Employers that Indicate They Offer Premium Reimbursement Arrangements				
	11-26 FTEs	26-50 FTEs	50+ FTEs	All 11+ FTEs
HIRD Filing Year 2010	2.2%	2.1%	1.5%	1.9%

Effective October 1, 2009, DHCFP amended its Fair Share Contribution regulation to specify that Premium Reimbursement Arrangements (PRAs) may be considered a qualifying group health plan if certain criteria are met by employers. PRAs enable employers, particularly small ones that may not be able to offer a traditional group health plan, to meet FSC offer standards by allowing workers to purchase an individual health insurance product and then be reimbursed by the employer for a portion of the cost of the premium. DHCFP intends to monitor usage of PRAs in the market using HIRD data.

114.5 CMR 16.00: EMPLOYER FAIR SHARE CONTRIBUTION

16.03 Determination of Fair and Reasonable Premium Contribution.

(a) Group Health Plan. A Contributing Employer must maintain documentation about its group health plan and premium contributions including, but not limited to, the following:

3. A Premium Reimbursement Arrangement may be considered a Group Health Plan for purposes of 114.5 CMR 16.00 only if the Employer designates a specific insurance plan or plans for employee enrollment, in writing; communicates such designation, in writing, to its employees; and otherwise meets the criteria enumerated in 114.5 CMR 16.03(3)(a) 1 and 2.

Note: Based on data self-reported with Department of Unemployment Assistance and Employer Health Insurance Responsibility Disclosure (HIRD), both as of June 30, 2011.



Data Considerations

- All HIRD and FSC data are self-reported by employers.
- Data are subject to some fluctuation because of late filing firms and ongoing compliance reviews by the Department of Unemployment Assistance.
- Only firms with 11 or more FTEs that certified their Fair Share Contribution filing data are reflected in this analysis.
- A small number of outlier filings based on unrealistic reported payroll hours and/or number of full-time employees were removed from the population subset for purposes of analyses.
- All data are current through June 30, 2011 and based on analyses of Department of Unemployment Assistance Fair Share Contribution data, unless otherwise noted.
- Data include filings from employers with 11 or more full-time equivalent employees from:
 - FSC Filing Year 2007 (Oct. 1, 2006 – Sept. 30, 2007) n = 24,921 firms
 - FSC Filing Year 2008 (Oct. 1, 2007 – Sept. 30, 2008) n = 23,690 firms
 - FSC Filing Year 2009 (Oct. 1, 2008 – Sept. 30, 2009) n = 23,241 firms
 - FSC Filing Year 2010 (Oct. 1, 2009 – Sept. 30, 2010) n = 22,324 firms





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Publication Number: 11-256-HFC-01
Authorized by Gary Lambert, State Purchasing Agent

This guide is available online at <http://www.mass.gov/dhcfp>
When printed by the Commonwealth of Massachusetts, copies are printed on recycled paper.